

17.06.00.00 – CONSULTANT QUALIFICATIONS

17.06.01.01 Consultant Qualifications - General

The authority for the selection of private sector consultants to perform right of way functions on both local assistance and special funded projects has been delegated to the LPA. The selection process will be administered by the LPA using the Consultant Selection Criteria and Guide. (See Exhibit 17-EX-13.) The Criteria establish recommended minimum levels of experience and permit the evaluation of prospective consultant firms.

After completing the selection process and retaining a consultant whose performance met the LPA's expectations, the agency would be able to utilize this same consultant to perform similar jobs without needing to repeat the selection process if no more than a two-year period has elapsed. When substantially different right of way services are needed (e.g., acquisition vs. relocation), the LPA should repeat the selection process.

17.06.02.01 Competitive Bidding

Competitive bidding is one of the cornerstones of a financially successful project. It should be stressed to LPAs that seeking bids from qualified firms will ensure that the agency is getting the most reasonable price. Prior to soliciting bids, careful consideration should be given to defining the scope of work for the consultant, estimating the cost of the consultant's work, and determining the type of contract.

The LPA should be advised that caution must always be exercised in the choice of a consultant. Just because a particular consultant meets the threshold criteria, this should never be the only basis for retaining them. Other factors, such as experience on past projects as well as references, should be given careful consideration. Each project and each agency have unique demands; and just because a prospective consultant meets the broad qualifications contained in the Consultant Criteria, this does not also mean that the consultant can meet the LPA's requirements. The LPA is responsible for maintaining documentation concerning the consultant selection process. This information should be made available to the Department as part of the monitoring process.

17.06.03.01 LPA Liability for Consultants

LPAs should be reminded that, as noted above, they are responsible and accountable for the actions of their consultants in properly executing their duties and activities in accordance with the Uniform Act. The LPA retains the ultimate responsibility for signing the Right of Way Certifications and is accountable for the actions and performance of their consultants.

The work products of the consultants will be monitored by the Region/District Local Agency staff using the procedures discussed in 17.03.13.01, "Monitoring," and 17.04.06.02, "Oversight (Quality Assurance)."

The Department has established broad criteria for use in evaluating the qualifications in the respective right of way functions, but Department is in no way liable either for devising such criteria or for the performance of the consultants by the LPA. **In the event the actions or performance of the consultant result in the loss of federal funds for the project, it is the sole responsibility of the local agency to repay these funds.**

17.06.03.02 Consultant Contracts

In entering into consultant contracts, it should be stressed to the LPA that consultants must perform right of way functions to the same standards, practices, rules, and regulations as the LPA. The following additional discussion about contracting responsibilities should also be clearly conveyed to the LPA.

17.06.03.03 **LPA Responsibilities**

In each contract, the LPA responsibilities include the following:

1. Appraisal Review - As noted above, when federal funds are used for any portion of the project, a formal review of the appraisal by a review appraiser is required.
2. Establishment of Just Compensation - In projects involving the acquisition of right of way, it will be necessary for the LPA to approve the fair market value and to determine what compensation is to be paid. **This is a federal requirement and cannot be delegated to a consultant.**
3. Assignment of a Contract Manager - The manager will serve as the contact person during the course of the project. The Contract Manager should be knowledgeable about all aspects of the project.

17.06.03.04 **Contract Manager Responsibilities**

The Contract Manager is responsible for the following:

1. Coordinating the review and approval of all consultant work products.
2. Approving requests for payment.
3. Coordinating all consultant activities for the project.
4. Providing interim and final contract completion reports.
5. Following the Caltrans *R/W Manual* in the performance of any right of way activities.

17.06.03.05 **Contract Administrator Qualifications**

The contract administrator ideally should have the following background:

1. Strong professional experience in the functional area under contract.
2. Familiarity with the project and contract objectives.
3. Understanding of management expectations.
4. Experience with the contract process.
5. The ability to communicate effectively.